

**§ 3.552 Harmless error.**

No error in either the admission or the exclusion of evidence, and no error or defect in any ruling or order or in any act done or omitted by the ALJ or by any of the parties is ground for vacating, modifying or otherwise disturbing an otherwise appropriate ruling or order or act, unless refusal to take such action appears to the ALJ or the Board inconsistent with substantial justice. The ALJ and the Board at every stage of the proceeding must disregard any error or defect in the proceeding that does not affect the substantial rights of the parties.

## PART 4—NATIONAL LIBRARY OF MEDICINE

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**§ 4.1 Programs to which these regulations apply.**

(a) The regulations of this part govern access to the National Library of Medicine's facilities and library collections and the availability of its bibliographic, reproduction, reference, and related services. These functions are performed by the Library directly for the benefit of the general public and health-sciences professionals as required by sections 465(b) (3)–(6) of the Act (42 U.S.C. 286(b) (3)–(6)).

(b) The regulations of this part do not apply to:

(1) The Library's internal functions relating to the acquisition and preservation of materials and the organization of these materials as required by sections 465(b) (1) and (2) of the Act (42 U.S.C. 286(b) (1) and (2)).

(2) The availability of "records" under the Freedom of Information Act

or the Privacy Act of 1974 (5 U.S.C. 552, 552a). These matters are covered in 45 CFR parts 5 and 5b.

(3) Federal assistance for medical libraries and other purposes which are authorized by sections 469–477 of the Act (42 U.S.C. 286b to 286b–8). (See parts 59a, 61 and 64 of this chapter.)

(4) The availability of facilities, collections, and related services of Regional Medical Libraries established or maintained under the authority in section 475 of the Act (42 U.S.C. 286b–6). (See part 59a, subpart B of this chapter.)

**§ 4.2 Definitions.**

As used in this part:

*Act* means the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*).

*Collections* means all books, periodicals, prints, audiovisual materials, films, videotapes, recordings, manuscripts, and other resource materials of the library. It does not include data processing tapes or programs used solely for internal processing activities to generate reference materials, nor does it include "records" of the Library as defined in 45 CFR 5.5. Records of the Library are available in accordance with the regulations under the Freedom of Information Act and Privacy Act of 1974. (See 45 CFR parts 5 and 5b.)

*Director* means the Director of the National Library of Medicine or the Director's delegate.

*Health-sciences professional* means any person engaged in: (1) The administration of health activities; (2) the provision of health services; or (3) research, teaching, or education concerned with the advancement of medicine or other sciences related to health or improvement of the public health.

*Historical collection* means: (1) Materials in the collections published or printed prior to 1914; (2) manuscripts and prints; (3) the archival film collection; and (4) other materials of the collections which, because of age, or unique or unusual value, require special handling, storage, or protection for their preservation, as determined by the Director.

*Library* means the National Library of Medicine, established by section 465 of the Act (42 U.S.C. 286).

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*Regional Medical Library* means a medical library established or maintained as a regional medical library under section 475 of the Act (42 U.S.C. 286b-6).

#### § 4.3 Purpose of the Library.

The purpose of the Library is to assist the advancement of medical and related sciences and aid the dissemination and exchange of scientific and other information important to the progress of medicine and the public health. The Library acquires and maintains library materials pertinent to medicine, including audiovisual materials; compiles, publishes, and disseminates catalogs, indices, and bibliographies of these materials, as appropriate; makes available materials, through loan or otherwise; provides reference and other assistance to research; and engages in other activities in furtherance of this purpose.

#### § 4.4 Use of Library facilities.

(a) *General.* The Library facilities are available to any person seeking to make use of the collections. The Director may prescribe reasonable rules to assure the most effective use of facilities by health-sciences professionals and to protect the collections from misuse or damage. These rules must be consistent with the regulations in this part and applicable Department regulations and policies on nondiscrimination.

(b) *Reading rooms.* Public reading rooms are available for obtaining and reading materials from the collections. The Director may prescribe reasonable rules designed to provide adequate reading space and orderly conditions and procedures.

(c) *Study rooms.* Upon request a limited number of study rooms may be made available to individuals requiring extensive use of Library materials. Requests for study rooms shall be addressed in writing to the Director. The Director shall give priority, in the following order, for study room use to:

(1) Persons engaged in "special scientific projects" under section 473 of the Act (42 U.S.C. 286b-4),

(2) Health-sciences professionals, and

(3) The general public.

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#### § 4.5 Use of materials from the collections.

(a) *Unrestricted materials.* Except as otherwise provided in this section, materials from the collections are generally available to any interested person only in facilities provided by the Library for this purpose. The Director may prescribe additional reasonable rules to assure the most effective use of the Library's resources by health-sciences professionals and to protect the collections from misuse or damage. The rules must be consistent with the regulations in this part and applicable Department regulations and policies on nondiscrimination. Materials in the collections are available upon each request which assures, to the Director's satisfaction, that the materials will be safeguarded from misuse, damage, loss, or misappropriation, and will be returned promptly after use or upon request of the Library.

(b) *Restricted materials*—(1) *Historical collection.* Materials from the historical collection are available only as the Director may permit to assure their maximum preservation and protection. Copies of these materials may be made available in the form of microfilm and other copies, for which reasonable fees may be charged.

(2) *Gifts.* Materials in the collections are available only in accordance with any limitations imposed as a condition of the acquisition of those materials, whether the acquisition was by gift or purchase.

(c) *Loans*—(1) *General.* Requests for loans of materials must assure the Library that (i) the materials will be safeguarded from misuse, damage, loss, or misappropriation and (ii) the materials will be returned promptly after use or upon request of the Library. The Library may provide copies in lieu of original materials, which need not be returned unless otherwise stated at the time of the loan.

(2) *Loans of audiovisual materials.* Audiovisual materials are available for loan under the same general terms as printed materials.

(3) *Loans to other libraries.* Upon request materials or copies are available for use through libraries of public or private agencies or institutions. The requesting library must assure that it